

JAMES D. ELLIOTT.

FEBRUARY 21, 1910.—Ordered to be printed.

MR. CRAWFORD, from the Committee on Claims, submitted the following

REPORT.

[To accompany S. 193.]

The Committee on Claims, to which was referred the bill (S. 193) for the relief of James D. Elliott, having had the same under consideration, respectfully reports the same to the Senate with the recommendation that the bill pass.

The facts upon which this claim is based are as follows:

The bill is for the purpose of appropriating the sum of \$2,599.99 due James D. Elliott as salary for services performed as United States attorney for the district of South Dakota from July 11, 1906, to March 4, 1907.

Early in the administration of President McKinley, Mr. Elliott was appointed United States attorney for the district of South Dakota, and his appointment was duly confirmed. At the end of the term for which he was appointed he was reappointed and served a full second term. His second term having expired, he was reappointed by President Roosevelt for another term, and under this reappointment he continued to serve after the expiration of his second term from July 1, 1906, until the 4th day of March, 1907.

Owing to a purely personal and factional controversy, his reappointment by President Roosevelt failed of confirmation with the expiration of the Fifty-ninth Congress, March 4, 1907.

No question whatever is raised with regard to his having actually and creditably performed the services during the period for which he has not received pay.

The accompanying letters from the Attorney-General and the assistant United States attorney at Sioux Falls, S. Dak., and from Hon. J. D. Elliott, which are hereto attached, fully present the facts upon which the claim is based.

DEPARTMENT OF JUSTICE,
Washington, January 28, 1908.

MY DEAR SENATOR: I am duly in receipt of your letter of the 22d instant, and beg to say that the term of service of James D. Elliott as United States attorney for the district of South Dakota, to which you refer, was from July 11, 1906, to March 4, 1907, and that the amount which would have been paid him as salary for that period had he been confirmed by the Senate is \$2,599.99. Under section 1761 of the Revised Statutes the department is unable to pay Mr. Elliott this amount, although he undoubtedly performed the services appropriate to the position of United States attorney during the time named.

Very truly, yours,

CHARLES J. BONAPARTE,
Attorney-General.

HON. ROBERT J. GAMBLE,
United States Senate.

DEPARTMENT OF JUSTICE,
OFFICE OF THE ATTORNEY-GENERAL,
Washington, D. C., March 20, 1908.

MY DEAR SENATOR: I am duly in receipt of your letter of the 19th instant in reference to the services of James D. Elliott, esq., formerly United States attorney for the district of South Dakota. I desire to say that there is no question that Mr. Elliott performed the duties of the position named from the 11th day of July, 1906, to the 4th day of March, 1907, to the satisfaction of the department, and fulfilled in every way, so far as I am informed, the requirements of this position.

Yours, very truly,

CHARLES J. BONAPARTE,
Attorney-General.

HON. ROBERT J. GAMBLE,
United States Senate.

DEPARTMENT OF JUSTICE,
UNITED STATES ATTORNEY'S OFFICE, DISTRICT OF SOUTH DAKOTA,
Sioux Falls, S. Dak., August 11, 1908.

MY DEAR MR. GAMBLE: Replying to your letter of March 9, 1908, relative to the salary due to Mr. James D. Elliott, former United States district attorney for the district of South Dakota, for the period from July 11, 1906, to March 4, 1907, amounting to the sum of \$2,529.99, will say:

It seems that some question has arisen as to the merit of this claim while, on account of section 1761, Revised Statutes of the United States, the department was unable to make payment in the usual way, yet, in my judgment, Mr. Elliott should be compensated for the services rendered during said period. The department actually paid a portion of it in the regular way and then required Mr. Elliott to refund on account of said section 1761. The department at Washington admitted, and in this office no intimation was ever made that Mr. Elliott was not entitled to this, and that he should be paid for it. Mr. Elliott rendered services and earned the money claimed now by him for such salary. It is a technicality that the department did not pay it. Mr. Elliott having done the work faithfully and in a manner perfectly satisfactory, it seems to me he should now be paid said sum, and that prompt action should be taken upon it, as is consistent with the procedure in such cases.

Mr. Elliott is a very able lawyer and a man of wonderful executive ability, and I have no hesitancy in saying that he rendered the services during said period as United States attorney, July 11, 1906, to March 4, 1907. That he is entitled to and should be paid for services so rendered. I was his assistant during that period and know that the services were rendered.

Very respectfully, yours,

WILLIAM G. PORTER,
Assistant United States Attorney.

HON. ROBERT J. GAMBLE,
United States Senator, Yankton, S. Dak.

TYNDALL, S. DAK., March 10, 1908.

MY DEAR MR. GAMBLE: I noticed a dispatch sent from Washington to the *Sioux City Journal* a few days ago, in which there was a suggestion that Senator Kittredge would oppose the passage of the bill introduced by you providing for the payment of my salary for the time I served as United States attorney from July, 1906, to March, 1907, on the grounds that the service had not been performed by me.

There is absolutely no ground for any such claim. I personally conducted the affairs of the office during that time in the same manner and to the same extent that I had during all the years that I held that position. In fact, it was during this time that we were looking up violations of the land laws in this State, and therefore the work was largely increased during that period over the normal condition in the district.

William G. Porter, of Sioux Falls, was my assistant, and while I have not seen him since early last fall I am very sure he would be glad to answer any inquiry you might make with reference to this claim, and I will add that he is the best qualified to answer the question of anyone, because he was with me and knows the amount of work and the manner in which the work was conducted.

And, as to the suggestion that I was looking after your political campaign, you will recall that the convention was held in June and your indorsement overwhelmingly received at the hands of the convention, and before I was appointed, and there was very little, politically, doing in the State.

With kindest personal regards,

Yours, sincerely,

J. D. ELLIOTT.

Senator ROBT. J. GAMBLE,
Washington. D. C.

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